

**63A-5-209. Building appropriations supervised by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program.**

- (1) The director shall:
  - (a) (i) supervise the expenditure of funds in providing plans, engineering specifications, sites, and construction of the buildings for which legislative appropriations are made; and
  - (ii) specifically allocate money appropriated when more than one project is included in any single appropriation without legislative directive;
  - (b) (i) expend the amount necessary from appropriations for planning, engineering, and architectural work; and
  - (ii) (A) allocate amounts from appropriations necessary to cover expenditures previously made from the planning fund under Section 63A-5-211 in the preparation of plans, engineering, and specifications; and
  - (B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and
  - (c) hold in a statewide contingency reserve the amount budgeted for contingencies:
    - (i) in appropriations for the construction or remodeling of facilities; and
    - (ii) which may be over and above all amounts obligated by contract for planning, engineering, architectural work, sites, and construction contracts.
- (2) (a) The director shall base the amount budgeted for contingencies on a sliding scale percentage of the construction cost ranging from:
  - (i) 4-1/2% to 6-1/2% for new construction; and
  - (ii) 6% to 9-1/2% for remodeling projects.
  - (b) The director shall hold the statewide contingency funds to cover:
    - (i) costs of change orders; and
    - (ii) unforeseen, necessary costs beyond those specifically budgeted for the project.
  - (c) (i) The Legislature shall annually review the percentage and the amount held in the statewide contingency reserve.
  - (ii) The Legislature may reappropriate to other building needs, including the cost of administering building projects, any amount from the statewide contingency reserve that is in excess of the reserve required to meet future contingency needs.
- (3) (a) The director shall hold in a separate reserve those state appropriated funds accrued through bid savings and project residual as a project reserve.
- (b) The director shall account for the funds accrued under Subsection (3)(a) in separate accounts as follows:
  - (i) bid savings and project residual from a capital improvement project, as defined in Section 63A-5-104; and
  - (ii) bid savings and project residual from a capital development project, as defined in Section 63A-5-104.
- (c) The State Building Board may authorize the use of project reserve funds in the account described in Subsection (3)(b)(i) for a capital improvement project:
  - (i) approved under Section 63A-5-104; and
  - (ii) for which funds are not allocated.

- (d) The director may:
- (i) authorize the use of project reserve funds in the accounts described in Subsection (3)(b) for the award of contracts in excess of a project's construction budget if the use is required to meet the intent of the project; and
  - (ii) transfer money from the account described in Subsection (3)(b)(i) to the account described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction budget.
- (e) The director shall report to the Office of the Legislative Fiscal Analyst within 30 days:
- (i) an authorization under Subsection (3)(c); or
  - (ii) a transfer under Subsection (3)(d).
- (f) The Legislature shall annually review the amount held in the project reserve for possible reallocation by the Legislature to other building needs, including the cost of administering building projects.
- (4) If any part of the appropriation for a building project, other than the part set aside for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, remains unencumbered after the award of construction and professional service contracts and establishing a reserve for fixed and moveable equipment, the balance of the appropriation is dedicated to the project reserve and does not revert to the General Fund.
- (5) (a) One percent of the amount appropriated for the construction of any new state building or facility may be appropriated and set aside for the Utah Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4.
- (b) The director shall release to the Division of Fine Arts any funds included in an appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art Program.
- (c) Funds from appropriations for any state building or facility of which any part is derived from the issuance of bonds, to the extent it would jeopardize the federal income tax exemption otherwise allowed for interest paid on bonds, may not be set aside.

Amended by Chapter 163, 2010 General Session